

AMENDMENT

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**REMARKS**

Claims 1-28 are pending.

**I.      Claims 10-13**

Claims 10-13 stand objected to as depending from a rejected base claims. These claims have been amended to no longer depend from a rejected claim, incorporating the features recited therein, Applicant respectfully submits that these claims are now in condition for allowance.

**II.     35 USC § 102**

Claims 1 and 5 stand rejected under 35 USC § 102(a) as allegedly being anticipated by Kempfer (U.S. Publication No. 2002/0092994). The Office Action asserts this reference teaches each feature recited by the rejected claims. However, Applicant respectfully requests reconsideration.

Specifically, the rejected claims recite “fuel cell system is thermally coupled to the internal combustion engine and/or the exhaust gas treatment system.” In contrast, the reference teaches the inclusion of a pre-heater 6 between the fuel cell 4 and the catalytic converter 12, component 10, and/or reformer 14. Nowhere in the specification, claims or drawings of this reference is a teaching to direct heat produced in a fuel cell system to either of an internal combustion system or an exhaust gas treatment system. In each embodiment described in the reference, a separate apparatus, i.e., the pre-heater 6, is utilized downstream of the fuel cell 4 to heat either the catalytic converter 12 or a component. Thus, even if “[t]he pre-heater is thermally coupled to at least the exhaust gas treatment system,” as asserted by the Office Action, such structure does not meet the features of either rejected claim. Accordingly, Applicant respectfully submits that neither claim 1 nor claim 5 is anticipated by Kempfer.

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Page 8III. 35 USC § 103

Claims 2, 6-9 and 14-16 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Kempfer in view of Suzuki et al. (U.S. Patent No. 6,532,911). The Office Action asserts Kempfer teaches each feature of the rejected claims, except for an intake air preheating system which uses coolant to preheat the intake air, wherein the preheating is only performed under cold start conditions, and at least one heat exchanger is used to achieve the preheating.

However, Applicant respectfully presents that because Suzuki et al. fails to cure the deficiencies of Kempfer alone, as noted above, the combination of Kempfer and Suzuki et al. cannot render the rejected claims unpatentable.

Reconsideration is respectfully requested.

IV. New Claims

New claim 17 recites the structure of the thermal coupling is a gas conduit, as supported in the specification at paragraph [0023]. New claims 18-26 are directed to a method of using the device of the invention as supported in the same paragraph. Each of these new claims further distinguishes over the cited references. As each of the new claims is supported in the specification, Applicant respectfully presents that no new matter has been entered.

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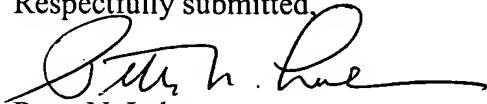
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V. Conclusion

In view of the above, it is respectfully submitted that all objections and rejections are overcome. Thus, a Notice of Allowance is respectfully requested.

Respectfully submitted,



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